

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

City of Faribault,

Complainant,

vs.

David Wilson,

Respondent.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING**

TO: Lorri Smith, Administrative Assistant, City of Faribault, 208 Northwest 1st Avenue, Faribault, MN 55021; and David Wilson, 2615 Woodhurst Drive, Faribault, MN 55021.

On March 7, 2007, the City of Faribault filed a Complaint with the Office of Administrative Hearings alleging that David Wilson violated Minnesota Statutes § 211A.05 by failing to timely file a campaign financial report certification of filing. After reviewing the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint sets forth a prima facie violation of Minnesota Statutes § 211A.05, subd. 1. This determination is described in more detail in the attached Memorandum.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter will be scheduled for a prehearing conference and evidentiary hearing to be held at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401, before three Administrative Law Judges. The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of the date and time of the prehearing conference and evidentiary hearing, and the three judges assigned to it, within approximately two weeks of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the evidentiary hearing all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

After the evidentiary hearing, the Administrative Law Judges may dismiss the complaint, issue a reprimand, or impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A

party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401, or call 612/341-7610 (voice) or 612/341-7346 (TTY).

Dated: March 9, 2007

/s/ Bruce H. Johnson
BRUCE H. JOHNSON
Administrative Law Judge

MEMORANDUM

Minnesota Statutes § 211A.02 requires candidates or committees who receive contributions or make disbursements of over \$750 in a calendar year, to file financial reports with the “filing officer.”¹ In addition, Minnesota Statutes § 211A.05 subd. 1, requires that candidates or committee treasurers certify to the filing officer that all financial reports required by section 211A.02 have been submitted or that the candidate or committee did not receive contributions or make disbursements exceeding \$750 in the calendar year. The certification must be submitted to the filing officer no later than seven days after the general or special election.

If a candidate or committee fails to file a required financial report on the date it is due, the filing officer shall immediately notify the candidate or committee of the failure to file.² If the report is not filed within ten days after the notification is mailed, the filing officer shall file a complaint under section 211B.32.³

David Wilson was a candidate for the Faribault City Council in the September 12, 2006, primary election. Mr. Wilson did not receive enough votes to advance to the November general election. According to the complaint, Mr. Wilson did not file any

¹ Minn. Stat. § 211A.01, subd. 7, defines “filing officer” to mean the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot.

² Minn. Stat. § 211A.05, subd. 2.

³ Minn. Stat. § 211A.05, subd. 2.

campaign financial reports and has failed to file a certification of filing within seven days of the general election as required by Minnesota Statutes § 211A.05, subd. 1. Lorri Smith is the Administrative Assistant for the City of Faribault. By letters dated December 8, 2006, and January 11, 2007, Ms. Smith notified Mr. Wilson of his failure to file the required campaign financial report certification of filing. To date, the City has not received the certification of filing from Mr. Wilson.

Because the City alleges that Mr. Wilson has not filed the campaign financial report certification of filing that was due by November 14, 2006, the Complaint states a prima facie violation of Minnesota Statutes § 211A.05, subd. 1. Pursuant to Minnesota Statutes § 211B.33, subd. 2(d), this matter shall be set on for an evidentiary hearing before a panel of three administrative law judges. An order scheduling this matter for a prehearing conference and evidentiary hearing will be issued shortly.

B.H.J.